

1 #571

2 BILL NO. Z-94-11-06

3 ZONING MAP ORDINANCE NO. Z- 05-94

4 AN ORDINANCE amending the City of
5 Fort Wayne Zoning Map No. Q-2.

6 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
7 WAYNE, INDIANA:

8 SECTION 1. That the area described as follows is hereby
9 designated an M-1 (Light Industrial) District under the terms
10 of Chapter 157 Title XV of the Code of the City of Fort Wayne,
11 Indiana of 1974:

12 Lots 16, 17, 18, 19 and 20 in Hagemans Subdivision as
13 recorded in Plat Record 4, page 38.
14 and the symbols of the City of Fort Wayne Zoning Map No. Q-2,
15 as established by Section 157.016 of Title XV of the Code of
16 the City of Fort Wayne, Indiana are hereby changed
17 accordingly.

18 SECTION 2. That this Ordinance shall be in full force
19 and effect from and after its passage and approval by the
20 Mayor.

21 
22 Janet Bradbury
23 Councilmember

24 APPROVED AS TO FORM AND LEGALITY:

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26 J. TIMOTHY McCAULAY, CITY ATTORNEY

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a. Bill No. Z-94-11-06 Change of Zone #571
From R-2 to M-1
Lots 16 through 19 and Lot 20 in Hagemans Subdivision.

John Schenkel, attorney, representing the petitioners, Joseph and Kathryn Barbiera appeared before the Commission. Mr. Schenkel stated that the petitioners own the property immediately to the east of the requested rezoning. He stated that they operate Home Guard Industries. He stated that there were a couple of inaccuracies in the staff report. He stated that currently on Home Guard's property the buildings amount to 54,399 sf and not the 64,000 sf that the staff states. He stated that the percentage of lot coverage currently is not 73.6% but 62½%. He stated that south (although it is actually north of the property) of the property is Conrail's main railroad line. He stated that although the petition is to rezone the property to an M-1 they have no immediate intentions of developing the property. He stated that it will probably be at least a year before the develop the property. He stated that because of the change in technology in the coating put on steel doors, Home Guard needs to construct a building, which would be an automatic powder coating and baking line. He stated that this building would be a long narrow structure built to the west along the railroad tracks. He stated that it would be a conveyor inside of a steel building. He stated that when the site committee looks at this they will see new buildings, including and as part of that 54,000 sf of building, 6,000 sf of building that is not completed. Mr. Schenkel stated that Home Guard has total inside storage, there is no smoke, dust, dirt, toxic gases and fumes or odors that are emitted by this company. He stated that Home Guard has always enjoyed from the City of Fort Wayne generous economic development support, both moral and financial. He stated that if this property is rezoned and this coating line goes out to the west, there will no change in the traffic patterns. He stated that the staff had expressed some concerns regarding Reynolds Street. He stated that virtually know one comes if from the west to Home Guard. He stated that it is accessed from Edsall through New Haven Avenue. He stated that these lots, prior to Home Guard, acquiring them, were used for a collection spot for debris. He stated that they have cleaned all of the debris from the lots and have built a mound along Roy Street, to as much as possible, discourage any future dumping. He stated that even if this property is rezoned to M-1, Home Guard would still be required to get permission from the Board of Zoning Appeals to expand into this property. In an M-1 District manufacturing is not allowed to exceed 15,000 sf in size, including all ancillary uses. They have a Board of Zoning Appeals approval for the current M-1 zoned property but would need an approval for this additional property. He stated that the biggest concern that the staff has is that this business is detrimental to the neighborhood. He stated that in Home Guard's experience this concern has been to the contrary.

Joseph Barbiera, 4131 Taylor Street, appeared before the Commission. Mr. Barbiera stated that he was the owner of the property and the primary stockholder in the business. Although he

stated that he is actively retired from the day-to-day operation of the business. However, when you are the primary stockholder of a business you have more than a passing interest in its operation. He stated that he started the business 11 years ago, in an old 8,000 sf building. He stated that since that time they have put additions on every side of the building, to where virtually no part of the original building is exposed. He stated that they have always attempted to landscape every part of the area that did not have a building on it. He stated that even just recently they put in a brick parking strip down the front with a flag pole, to generally enhance their appearance in the neighborhood. He stated that when it came time to expand the office instead of merely putting up a steel building, they put up a brick facade and a shingled mansard roof. He stated that he mentioned those things to prove to the Commission that they are not rotten neighbors. He stated that their real interest in the neighborhood has been to enhance the property. Both his two sons and himself, have always taken pride in, not only in maintaining a decent looking property, but something that the neighbors would be proud to have in the neighborhood. He stated that he has had any number of people in the neighborhood say that he has certainly cleaned up that corner of the neighborhood. He stated that he is very proud of that. He stated that they are basically a neighborhood business. He stated that they employ a great number of people from the immediate area. He stated that you would think because of that they would not have a parking problem. However, it seems that anyone that lives more than two blocks from work, drives. He stated that as they began to fill in the lot they knew that they were running out of parking space, so at that time they bought up two lots across the street and were able to get that zoned for parking. He stated that in building this last addition, they have filled up a great portion of their existing onstreet parking lot. He stated that they felt that by buying the property next to them that they would have no opposition to an M-1 rating so that they could put a parking lot directly to the west of the building. He stated that there is an additional acre of land and in the future they may have a need to expand. He stated that currently they do not have an immediate need for the expansion of their facility. He stated that they do have a very pressing need for parking, so that they can get the parking off of the street. He stated that they do not plan to have any facility to the west of their current plant for trucks of any sort. He stated that it would be counter productive to bring anything into that end of the plant.

Gary Kunkle, 2654 Wells St, the property owner of Lots 14 & 15 which are located on the northeast corner of Roy & Reynolds Street. He stated that he felt that the rezoning of the property to M-1, which is directly adjacent and north of his property would be detrimental. He stated that he has a rental property on these lots and it could be a nuisance to the renters. He stated that he was aware that you could build to the property line in an M-1 district. He was concerned what type of impact this zoning would have on his property as a residential rental. He stated that he was of the understanding that if they only want to use the property for

parking that they could request permission from the Board of Zoning Appeals. He stated that he was aware that the Board of Zoning Appeals has the right to place conditions, such as landscaping and screening that would help to protect his tenants.

Mark GiaQuinta stated that he was understanding that Mr. Kunkle's attitude in respect to this rezoning was neither for or against. He questioned if Mr. Kunkel was saying that it would all depend upon what it would look like after it was complete.

Mr. Kunkel stated that he was really saying is that if Lots 14 & 15 are not included in the rezoning he is against the rezoning, because it would be too much of a hardship on the renters on that property.

Mr. GiaQuinta asked if he wanted his lots rezoned to M-1.

Mr. Kunkel stated that he did not want them M-1, and used as a rental property. He stated that if Home Guard wants to purchase the property then they will have to deal with the use, but if they do not then he does not want any of the property rezoned to M-1.

In rebuttal, Mr. Schenkel stated that his only comment is that when the Board of Zoning Appeals approved the parking lot, one of the conditions was the screening. He stated that one of the neighbors came out and was very upset because they were putting up the screening as required. He stated that they had to come back to the Board of Zoning Appeals and ask them to relieve them of the screening condition. He stated that Home Guard and the Barbieras are very cooperative with what they want to do. He stated that they want what is best for neighborhood.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

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There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on November 15, 1994 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-94-11-06; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on November 21, 1994.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

- (1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;
- (3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;
- (4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,
- (5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held November 28, 1994.

Certified and signed this
29th day of November 1994.



Carol Kettler Sharp
Secretary

Division of Community Development & Planning

BRIEF TITLE	APPROVAL DEADLINE	REASON
Zoning Map Amendment		
From R-2 to M-1		

DETAILS	POSITIONS	RECOMMENDATIONS
Specific Location and/or Address NE corner of Reynolds & Roy Streets - the 1600 Blk of Roy Street.	Sponsor	City Plan Commission
Reason for Project Expansion of Home Guard Industries.	Area Affected	City Wide Other Areas
	Applicants/ Proponents	Applicant(s) Joseph & Kathryn Barbieri City Department Other
Discussion (Including relationship to other Council actions) <u>21 November 1994 - Public Hearing</u> See Attached Minutes of Meeting	Opponents	Groups or Individuals Gary Kunkle, 2654 Wells St Basis of Opposition -rezoning would pose a hardship on his existing residential rental property on Lots 14 & 15
<u>28 November 1994 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation. Of the nine (9) members present, seven (7) voted in favor of the motion, one (1) voted against the motion, the Chair did not vote. Motion carried. Members Present: Linda Buskirk, Ernest Evans, Mark GiaQuinta, James Hoch, Thomas Quirk, Dave Ross, Carol Kettler Sharp, Mel Smith, Vicky VerPlanck	Staff Recommendation	<input type="checkbox"/> For <input checked="" type="checkbox"/> Against Reason Against -approval could add to the deterioration in the area of both existing housing and the infrastructure
	Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
	CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Project Start

Date 19 October 1994

Projected Completion or Occupancy

Date 29 November 1994

Fact Sheet Prepared by

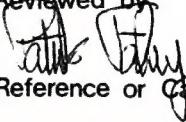
Date 29 November 1994

Patricia Biancaniello

Reviewed by

Date 15 December 1994

Reference or Case Number



ZOHRAK K. TAZIAN, P.E. & L.S.
SAM L. FAUST, L.S.



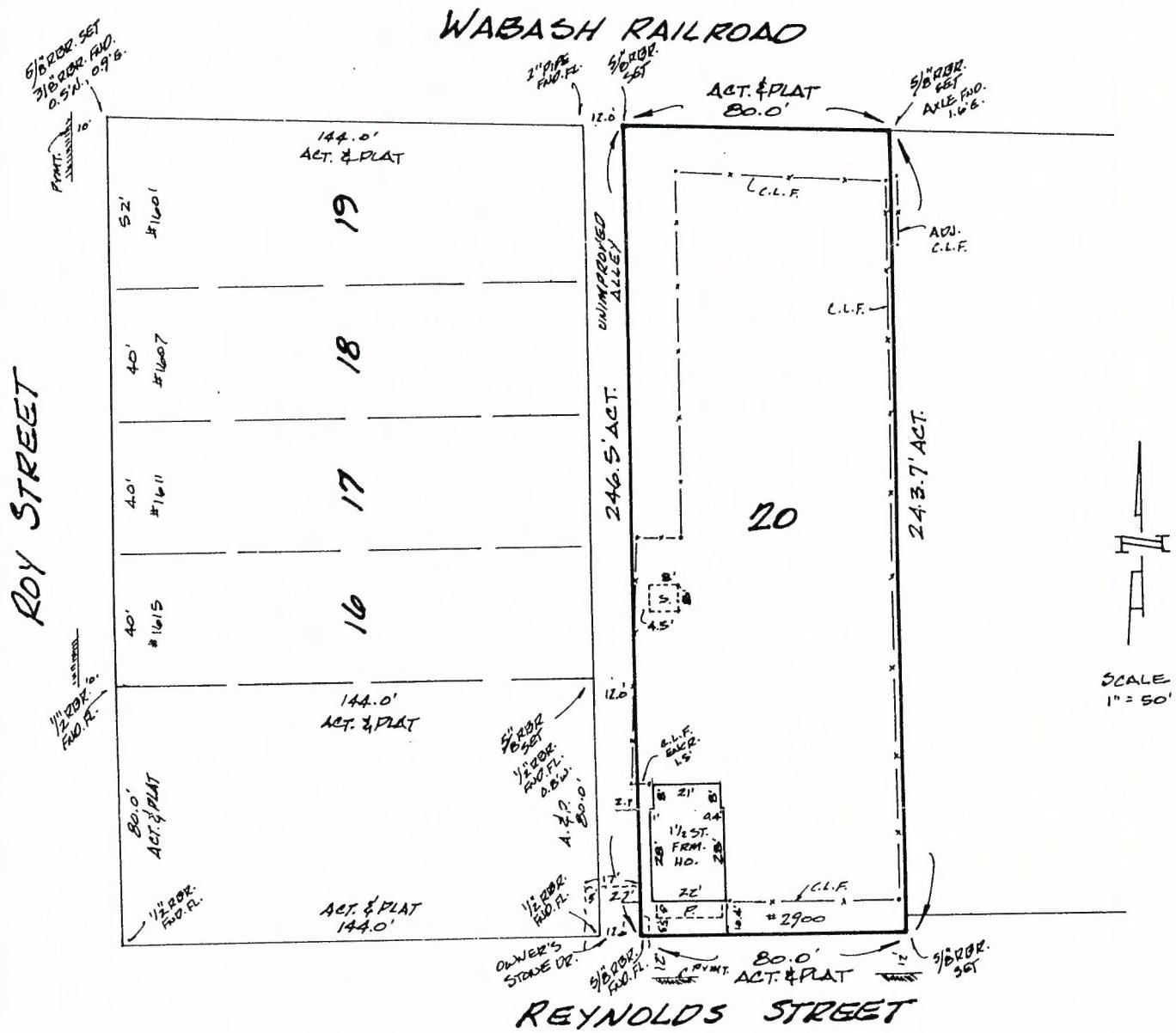
CERTIFICATE OF SURVEY

This document is a record of a resurvey of land and real estate prepared in conformity with established rules of surveying and made in accordance with the records or plat on file in the Recorder's office of Allen County, State of Indiana. The land described exists in full dimensions as shown hereon in feet. It is free from encroachments by adjoining land owners unless specifically stated below. Corners were perpetuated as indicated.

DESCRIPTION OF REAL ESTATE

Lots 16, 17, 18 and 19 and also Lot #20 in Hageman's Subdivision to the City of Fort Wayne, Indiana.

This property is in Zone X, as the description plots by scale on Flood Insurance Rate Map No. 18003C 0280D, effective September 28, 1990.



I, the 28 day of April, 1994, that the above survey is correct.
Surveyed for: Lichtsinn
Survey No.: RO-102 "B"



RECEIPT

No 14949

COMMUNITY & ECONOMIC DEVELOPMENT

FT. WAYNE, IN.,

19

RECEIVED FROM
THE SUM OF
ON ACCOUNT OF

10/19/94
J. K. Kealty \$ 200.00
Two hundred ⁰⁰ ₁₀₀ DOLLARS

PAID BY: CASH CHECK M.O.

Rezoning 2905 Keppel St
Parke
AUTHORIZED SIGNATURE



Petition for a Zoning Map Amendment

Community & Economic Development / 1 Main Street Rm 830 / Fort Wayne, IN 46802 / (219) 427-1140

I/We Joseph and Kathryn Barbieri do hereby petition to amend the Zoning Map of the City of Fort Wayne Indiana, by reclassifying from a/an R2 designation to a/an M1 designation, the property located at the common street address of: NE corner of Reynolds & Ray - 1600 Ray St. and further described as follows: Lots 16, 17, 18 and 19 in Hagemans Subdivision as recorded in Plat Record 4, page 38, and all of Lot 20.in Hagemans Subdivision.

(Please attach a legal description if more space is needed.)

The purpose of this proposed rezoning is to permit the use of the property for the following:
To enlarge the property for Home Guard Industries, Inc.

Property owners Name(s): Joseph and Kathryn Barbieri

Street Address: P. O. Box 10761

City: Ft. Wayne State: IN Zip: 46860 Phone: 426-3470

Applicants Name (if different from above): _____

Street Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

I/We the undersigned, do hereby certify that I am/We are the owner(s) of more than fifty percent (50%) of the property described in this petition; that I/we agree to abide by all provisions of the Fort Wayne Zoning Ordinance as well as all procedures and policies of the Fort Wayne City Plan Commission as relating to the handling and disposition of this petition; and that the above information is true and accurate to the best of my/our knowledge.

Joseph Barbieri Joseph Barbieri 10-13-94
Signature Printed Name Date

Kathryn Barbieri Kathryn Barbieri 10-13-94
Signature Printed Name Date

Signature Printed Name Date

Notes to the Applicant:

- If additional space is needed for either a legal description, or property owners names addresses and signatures, please attach same to this form.
- All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice being submitted to the newspaper for publication.
- Filing of this petition grants the City of Fort Wayne permission to post "Official Notice" on the petitioned property. Failure to post, or to maintain posting may prevent the public hearing from being held.
- All checks should be made payable to: City of Fort Wayne.

Name and address of preparer, attorney or agent.

Michelle M. Fennessy, Esq. (219) 424-1333
SCHENKEL & TIRPAK Telephone Number
520 South Calhoun Street

Fort Wayne, IN 46802
Attorney No. 13969-29

Form Rez494

Receipt #:	Date Filed:
Map #:	Reference #:

Read the first time in full and on motion by _____
and duly adopted, read the second time by title and referred to the _____
Committee on _____ (and the City Plan Commission
for recommendation) and Public Hearing to be held after due legal notice, at
the Common Council Council Conference Room 128, City-County Building, Fort
Wayne, Indiana, on _____, the _____ day of
_____, 19_____, at _____ o'clock

M., E.S.T.

DATED: _____ SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury,
and duly adopted, placed on its passage. PASSED LOST
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
<u>TOTAL VOTES</u>	<u>6</u>	<u>1</u>		<u>2</u>
<u>BRADBURY</u>	<u>✓</u>			
<u>EDMONDS</u>				<u>✓</u>
<u>GiaQUINTA</u>				<u>✓</u>
<u>HENRY</u>	<u>✓</u>			
<u>LONG</u>	<u>✓</u>			
<u>LUNSEY</u>		<u>✓</u>		
<u>RAVINE</u>	<u>✓</u>			
<u>SCHMIDT</u>	<u>✓</u>			
<u>TALARICO</u>	<u>✓</u>			

DATED: 12-27-94.

Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. 2-05-94
on the 27th day of December, 1994

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 28th day of December, 1994,
at the hour of 11:45 o'clock A., M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

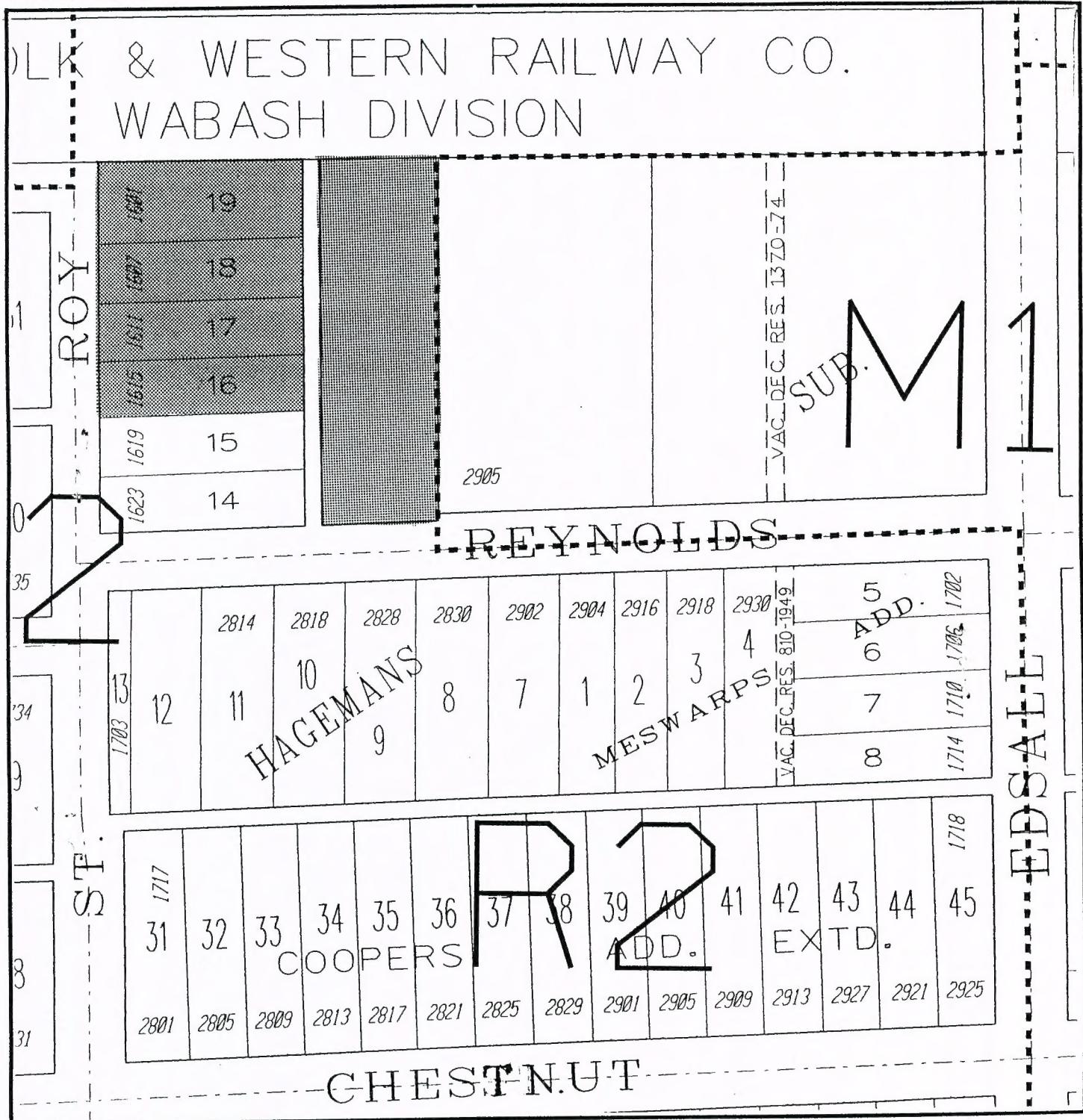
Approved and signed by me this 29th day of December,
1994, at the hour of 2:45 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

REZONING PETITION

AREA MAP

CASE NO. #571



COUNCILMANIC DISTRICT NO. 1

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

DIGEST SHEET

TITLE OF ORDINANCE Zoning Map Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE Northeast corner of Reynolds & Roy

Streets - 1600 Block of Roy Street.

2-94-11-06

EFFECT OF PASSAGE Property is currently zoned R-2 - Two Family Residential. Property will become zoned M-1 - Light Industrial District.

EFFECT OF NON-PASSAGE Property will remain R-2 - Two Family Residential District.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE) _____

BILL NO. Z-94-11-06

*hold for
12/27.*

REPORT OF THE COMMITTEE ON
REGULATIONS

REBECCA J. RAVINE - MARK E. GIAQUINTA - CO-CHAIR
DONALD J. SCHMIDT
JANET G. BRADBURY

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (RESOLUTION) amending the City of Fort
Wayne Zoning Map No. 0-2

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (RESOLUTION) XXX

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Mark E. Giaquinta
Rebecca J. Ravine
Donald J. Schmidt
Janet Bradbury.

DATED: 12-27-84

Sandra E. Kennedy
City Clerk